

AMENDED IN SENATE JULY 14, 2009

AMENDED IN SENATE JUNE 18, 2009

AMENDED IN ASSEMBLY APRIL 15, 2009

AMENDED IN ASSEMBLY APRIL 13, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 571

Introduced by Assembly Member Saldana

February 25, 2009

An act to amend Section 8254 of, to add and repeal Section 8254.5 of, and to add and repeal Article 5.5 (commencing with Section 8260) of Chapter 2 of Part 3 of Division 6 of, the Fish and Game Code, relating to commercial fishing, ~~and making an appropriation therefor.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 571, as amended, Saldana. Commercial fishing: lobster management enhancement.

Existing law prohibits the taking of lobsters for commercial purposes except under a valid lobster permit issued by the Department of Fish and Game. The base permit fee for a lobster permit is \$265.

This bill, commencing April 1, 2010, and until March 31, 2015, would increase the permit fee for a lobster permit to \$565. Under the bill, \$300 of the permit fee would be known as the Lobster Management Enhancement Supplement. The bill would require the department to deposit supplement revenues in the Lobster Management Enhancement Account, which the bill would create. The bill would ~~continuously appropriate~~ *require that* money in the account ~~to the Ocean Protection Council~~ *be expended by the Secretary of the Ocean Protection Council,*

upon appropriation by the Legislature, exclusively to fund specified projects and programs that support long-term sustainability or improved management, or both, of the California spiny lobster fishery to improve lobster sustainability and management. The bill would create a 5-member Lobster Management Enhancement Advisory Committee to recommend to the council projects and programs and budgets for the expenditure of account moneys, *including a plan to prioritize expenditures.* Those lobster management enhancement provisions would be repealed on January 1, 2016.

Vote: majority. Appropriation: ~~yes~~-no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature finds and declares all of the
2 following:

3 (a) California's spiny lobster fishery is an important component
4 of California's marine ecosystem, as well as an important source
5 of jobs for California fishermen and fisherwomen and food for
6 consumers.

7 (b) California's commercial and recreational lobster fishermen
8 and fisherwomen, primarily through associations, should participate
9 in the development and implementation of new approaches to
10 managing lobster fishing. Those approaches should be designed
11 to ensure economical and sustainable fishing.

12 (c) California's lobster fishing associations will greatly benefit
13 from an established mechanism that will provide a steady source
14 of funds for projects that promote the long-term sustainability and
15 improved management of the California spiny lobster fishery.

16 SEC. 2. Section 8254 of the Fish and Game Code is amended
17 to read:

18 8254. (a) Lobsters shall not be taken for commercial purposes
19 except under a valid lobster permit issued to that person that has
20 not been suspended or revoked, subject to regulations adopted by
21 the commission.

22 (b) Every person who takes, assists in taking, possesses, or
23 transports lobsters for commercial purposes while on any boat,
24 barge, or vessel, or who uses or operates or assists in using or
25 operating any boat, net, trap, line, or other appliance to take lobsters
26 for commercial purposes, shall have a valid lobster permit.

1 (c) Except as provided in Section 8254.5, the permit fee for a
2 lobster permit is two hundred sixty-five dollars (\$265).

3 (d) The fee for a lobster crewmember permit is one hundred
4 twenty-five dollars (\$125).

5 (e) For the purposes of this section, it is prima facie evidence
6 that lobster is taken for commercial purposes if the possession of
7 lobster is more than three times the sport bag limit.

8 SEC. 3. Section 8254.5 is added to the Fish and Game Code,
9 to read:

10 8254.5. (a) Notwithstanding subdivision (c) of Section 8254,
11 commencing April 1, 2010, the permit fee for a lobster permit shall
12 be five hundred sixty-five dollars (\$565). Three hundred dollars
13 (\$300) of the permit fee is a surcharge and shall be known as the
14 Lobster Management Enhancement Supplement. The department
15 shall deposit Lobster Management Enhancement Supplement
16 revenues in the Lobster Management Enhancement Account
17 pursuant to Section 8262.

18 (b) This section shall become inoperative on March 31, 2015,
19 and, as of January 1, 2016, is repealed, unless a later enacted
20 statute, that becomes operative on or before January 1, 2016,
21 deletes or extends the dates on which it becomes inoperative and
22 is repealed.

23 SEC. 4. Article 5.5 (commencing with Section 8260) is added
24 to Chapter 2 of Part 3 of Division 6 of the Fish and Game Code,
25 to read:

26
27 Article 5.5. Lobster Management Enhancement Supplement
28

29 8260. As used in this article:

30 (a) "Account" means the Lobster Management Enhancement
31 Account established in Section 8262.

32 (b) "Committee" means the Lobster Management Enhancement
33 Advisory Committee established pursuant to Section 8263.

34 (c) "Council" means the Ocean Protection Council established
35 in Section 35600 of the Public Resources Code.

36 8262. (a) Lobster Management Enhancement Supplement
37 revenues received by the department pursuant to Section 8254.5,
38 and any interest earned on those revenues, shall be deposited
39 monthly in the Lobster Management Enhancement Account, which
40 is hereby established as a separate account of the California Ocean

1 Protection Trust Fund in the State Treasury. ~~Notwithstanding~~
2 ~~Section 13340 of the Government Code, the money in the account~~
3 ~~is continuously appropriated to the council for projects and~~ *The*
4 *money in the account, upon appropriation by the Legislature, shall*
5 *be expended by the Secretary of the Ocean Protection Council*
6 *exclusively for projects and programs to improve lobster*
7 *sustainability and management consistent with subdivision (b).*

8 ~~(b) Projects and programs recommended by the committee shall~~

9 *(b) The committee shall develop a plan that prioritizes*
10 *expenditures on projects and programs that support long-term*
11 *sustainability or improved management, or both, of the California*
12 *spiny lobster fishery, consistent with Section 35650 of the Public*
13 ~~Resources Code. Potential projects and programs include, but are~~
14 ~~not limited to, all Code, including, but not limited to, all of the~~
15 ~~following:~~

16 (1) Obtaining Marine Stewardship Council sustainability
17 certification.

18 (2) Coordination and collaboration within the fishery to help
19 develop or improve new management approaches that optimize
20 catch per unit effort and create incentives for ecosystem
21 improvement.

22 (3) Repaying loans for lobster fishery management improvement
23 projects.

24 (4) Conducting research leading to informed and strategic
25 management of the fishery.

26 (5) Planning and development of a lobster fishery management
27 plan.

28 ~~(e) Moneys in the account shall not be expended for a project~~
29 ~~or program unless the expenditure has been approved by both the~~
30 ~~Secretary of the Ocean Protection Council and a majority of the~~
31 ~~members of the committee.~~

32 *(c) The Secretary of the Ocean Protection Council shall fund*
33 *only projects and programs pursuant to this article that are*
34 *consistent with the priorities identified pursuant to subdivision (b)*
35 *and with this article.*

36 (d) Department administrative overhead, collection, or other
37 charges shall not exceed 5 percent of the annual expenditures from
38 the account.

1 (e) Council administrative overhead, collection, or other charges
2 shall not exceed 5 percent of the annual expenditures from the
3 account.

4 8263. (a) The Lobster Management Enhancement Advisory
5 Committee is hereby created, consisting of five members, as
6 follows.

7 (1) One member, with an alternate, representative of the state's
8 commercial lobster fishermen and fisherwomen.

9 (2) Two members, each with an alternate, selected from the
10 membership of the California Lobster and Trap Fishermen's
11 Association. This subdivision does not prohibit persons selected
12 pursuant to paragraph (1) from also being a member of the
13 California Lobster and Trap Fishermen's Association.

14 (3) The Secretary of the Ocean Protection Council, or his or her
15 designee.

16 (4) The director, or his or her designee.

17 (b) The committee members described in paragraphs (1) and
18 (2) of subdivision (a) and their alternates shall hold a valid lobster
19 permit and members shall be elected by a majority of the holders
20 of a valid lobster permit to terms determined by a majority of the
21 holders of a valid lobster permit.

22 (c) The committee members elected pursuant to paragraphs (1)
23 and (2) of subdivision (a) or their alternates shall receive actual
24 and necessary traveling expenses incurred in conformance with
25 reimbursement procedures established by the council. Travel
26 expenses shall be paid from the account.

27 (d) A vote by the committee is not valid unless all five members
28 are present to vote.

29 (e) The committee shall recommend to the council projects and
30 programs consistent with subdivision (b) of Section 8262 and
31 budgets for the expenditure of moneys received pursuant to this
32 article.

33 (f) The council shall prepare and submit to the committee and
34 to the Legislature an annual report that includes both of the
35 following:

36 (1) An accounting of funds deposited into and expended from
37 the account, including, but not limited to, the number of permits
38 sold, revenues generated, moneys expended, and the status and
39 actual project expenditures of projects or programs funded pursuant
40 to this article.

1 (2) A statement of the council's reasoning in cases in which the
2 council does not follow committee recommendations made
3 pursuant to subdivision (e).

4 (g) In furtherance of the purposes articulated in subdivision (b)
5 of Section 8262, the council may contract with, or offer grants to,
6 nonprofit commercial fishery organizations.

7 (h) The council may act as fiscal agent for the committee.

8 8264. The council may receive funds for deposit in the account,
9 for purposes of this article, from sources other than the sale of
10 commercial fishing lobster permits, including, but not limited to,
11 grants from the federal government, grants from private
12 foundations, money disbursed from court settlements, and
13 donations and bequests from individuals. Additional funds received
14 pursuant to this section shall not be deposited in the account unless
15 the person or entity providing the funds specifically designates in
16 writing, prior to or at the time of transmittal of the funds to the
17 council, that the funds are intended solely for deposit to that
18 account.

19 8265. This article shall remain in effect only until January 1,
20 2016, and as of that date is repealed, unless a later enacted statute,
21 that is enacted before January 1, 2016, deletes or extends that date.